

KENTUCKY DEPARTMENT OF EDUCATION

STAFF NOTE

Action/Discussion Item:

703 KAR 5:070, Procedures for the inclusion of special populations in the state-required assessment and accountability program (Final)

Applicable Statute or Regulation:

KRS 158.6453, 703 KAR 5:070

Action Question:

Should the Kentucky Board of Education (KBE) give final approval to 703 KAR 5:070?

History/Background:

Existing Policy. From the early 1990s, Kentucky's assessment and accountability program has been an inclusive system requiring that all students, even those with the most severe disabilities, participate and be included in accountability calculations. No Child Left Behind also establishes the expectation of inclusion for all students and incorporates subgroup targets of performance in the determinations of Adequate Yearly Progress.

The use of assessment results in state and federal accountability calculations, school improvement and student information heightens the importance of statewide, consistent assessment administration practices. Annually, educators involved with providing testing accommodations to students in special populations must receive training on 703 KAR 5:070, *Inclusion of Special Populations in the State-Required Assessment and Accountability Programs* and districts must maintain training documentation.

Policy Issue (s):

Proposed changes to the Inclusions regulation reflect the current assessment and accountability system and new technologies, incorporate federal requirements for students with limited English proficiency, and remove repetitive language or language found in other current regulations.

Since the KBE review of this regulation in June, staff has continued to examine and discuss the regulation with stakeholders and review national information. This work has influenced staff to recommend some clarifications related to students with limited English proficiency (LEP). The clarifications attempt to more clearly delineate between LEP students and students with a disability.

While LEP students have a language barrier, those with only a Program Services Plan do not have diagnosed learning disabilities. National work with LEP students has identified

that some accommodations used with student populations with disabilities may not be appropriate for LEP students or should be used on a limited basis. For example, the use of a scribe with LEP students may hinder the development of English skills if implemented for too long a period of time or after the student has reached a level of proficiency with English.

In June, the revised regulation introduced two new accommodations for the LEP population—simplified language and oral native language support. Since the review of the regulation in June, definitions of these accommodations have been developed to provide guidance.

Staff Recommendations and Rationale:

Based on continuing work with those in the LEP community and District Assessment Coordinators, staff recommends a few clarifications and additions related to LEP students throughout the regulation. Also, two minor language changes for consistent language use and structure are recommended. Changes are identified with **bold** font in the final proposed version of the regulation and are outlined below.

Page 6, 2c—Replace “are receiving” with “receive” to improve sentence structure in the list of conditions for participation with accommodations.

Page 15—Add conditions and limits on the use of a scribe for LEP students that only have a Program Service Plan and no diagnosed special education needs. Consistent with all accommodations, the student must have evaluation data supporting the use of a scribe and use the accommodation of scribe in routine instruction. The use of a scribe is limited to students that have not reached proficiency in English and have not completed two full school years in a U.S. school. The two-year timeframe is consistent with Kentucky’s rule for when LEP students must submit a writing portfolio and recognizes writing is usually the last English skill to develop.

Page 19—Add a listing of accommodations that delineates appropriate accommodations for use on state assessments for students with language barriers, separate from students with disabilities.

Page 23—Add statement that use of scribe is limited for LEP students as referenced in Section 3.

Page 31—Add “that is” to provide a minor language clarification in a prompting and cueing example.

Page 32—Add definitions for new LEP accommodation terms, Simplified Language and Oral Native Language Support, to provide more guidance.

Groups Consulted and Brief Summary of Responses:

Staff established a work team including school and district personnel and KDE staff from other offices. Administration Code issues have been discussed with District Assessment

Coordinators, the School Curriculum, Assessment and Accountability Council and Local Superintendents Advisory Council. Staff will continue to seek input that can be shared in August.

Impact on Getting to Proficiency:

Holding schools accountable for progress is a key element in meeting proficiency by 2014. As we move closer to 2014 it becomes increasingly important for schools to thoroughly understand the requirements of the assessment and accountability system including administration rules for the inclusion of students in special populations so that schools may focus their efforts on ensuring every child is proficient and prepared for success.

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